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OGC Has Reviewed

MEMORANDUM FOR THE RECORD

SUBJECT: Home Leave Eligibility Date and Accrual
During Time Employee is in the United
States on Emergency Leave

REFERENCES: (a) [] paragraph 4, dated 30 August 1962
(b) Foreign Affairs Manual, Volume 3, Sections
452.2-2 and 453.3-5
(c) Civil Service Regulations, Part 30,
Annual and Sick Leave, Sub-Part F,
Home Leave-Federal Personnel Manual
Z 1-355-356.01
(d) Comptroller General Decision, 16 March 1950,
B-93365, addressed to the DCI

1. We have been asked to decide whether credit for home leave may be accrued during the time in which an employee is serving abroad but is away from his post of duty on emergency or other leave in the United States. [] dated 30 August 1962, states in paragraph 4(a), "... Creditable service includes. . . authorized leave with pay (regardless of where such leave is used). . . ." Our 2 August opinion on this subject cites a 1950 unpublished Comptroller General's opinion, referenced above, which states in part, "It appears reasonable to conclude that periods of annual or sick leave spent in the United States. . . --while they need not be held to constitute a break in the continuity of service abroad--should not be counted as service abroad." We saw no reason at that time not to apply this Comptroller General's decision, even though new legislation on home leave had been enacted since the decision.

2. The Civil Service Regulation on home leave, (reference c), states the following: "Creditable service includes. . . authorized leave with pay." I discussed the interpretation of this wording with

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Mrs. Daquilla (code 129, ext. 3242) of the Civil Service Commission, who stated that the Commission read its regulation inclusively, i. e., any authorized leave with pay counted toward the home service credit, even if taken in the United States. She stated this had been the rule since application of the new Overseas Differentials and Allowances Act and had been specifically checked with the General Accounting Office. Thereafter I called Mr. Pat Friend (code 129, ext. 5882) of the General Accounting Office and asked whether the new act had, in effect, overruled the Comptroller General's unpublished decision. He stated he could recall nothing offhand in the Overseas Differentials and Allowances Act which dealt specifically with the question and that he would research the problem and call me in a day or two. Mrs. Daquilla had said that the Commission had read the rule this way in order to avoid the administrative problem of recomputing home leave accrual in cases in which employees had taken annual or sick leave in the United States.

3. The Foreign Affairs Manual of the Department of State referenced above states that "any time spent on leave in the United States. . . shall delay the date on which the period of continuous service abroad is completed." On the other hand, it states further that "home leave continues to accrue while on leave, consultation, or detail, or while traveling in the United States." Assuming that the Department would include leave in the United States as part of the term "on leave," it apparently applies a different rule to the question of accrual as contrasted with that of when home leave may begin.

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4. I met Thursday, November 1, 1962, with Messrs. Charles [redacted] DD/S, [redacted] Office of Personnel, and apprised them of Mr. Friend's offer to look into the matter further. I pointed out to them that if this Office can approve the Handbook, thus overruling the Comptroller General's decision as it would apply to Agency employees, we would, in recognition of the administrative desire to improve control over the overseas tours of its employees. I said I would contact them after Mr. Friend called.

Distribution:

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Office of General Counsel

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